

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JEFFREY BOYKIN, ET AL,

Plaintiffs,

vs

Case No: 04-72387  
Honorable Victoria A. Roberts

VAN BUREN TOWNSHIP POLICE  
DEPARTMENT, ET AL,

Defendants,

\_\_\_\_\_ /

**ORDER DENYING DEFENDANTS MEIJER, CHANEY  
AND YOUMAN'S MOTION FOR COSTS**

Judgment entered for Defendants on February 10, 2006. Following that, Defendants filed the above entitled motion in March, 2006 (Doc. #67). Plaintiffs appealed the Court's award of summary judgment in Defendants' favor. Pending appeal, this Court held Defendants' motion for costs in abeyance. On March 14, 2007, the Sixth Circuit reversed this Court's dismissal of state law claims against these Defendants.

Defendants base their motion on FRCP 54(d) (1). Costs are available under this provision only to a prevailing party. See Fed.R.Civ.P. 54(d)(1): [C]osts other than attorneys' fees shall be allowed as of course to the prevailing party...."

Because of the Sixth Circuit's reversal, the Meijer Defendants are no longer prevailing parties, and are not entitled to costs. See, *Hinchman v Moore*, 312 F.3d 198 (6<sup>th</sup> Cir. 2002); *Mills v City of Barboursville*, 389 F.3d 568 (6<sup>th</sup> Cir. 2004). Their motion must be **DENIED**.

**IT IS ORDERED.**

S/ Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: March 28, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on March 28, 2007.

S/Linda Vertriest  
Deputy Clerk